United Nations S/2003/495

Security Council

Distr.: General
28 April 2003

Original: English

Letter dated 21 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 12 September 2002 (S/2002/1016).

The Counter-Terrorism Committee has received the attached supplementary report from Saint Vincent and the Grenadines, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 15 April 2003 from the Permanent Mission of Saint Vincent and the Grenadines to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Saint Vincent and the Grenadines to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee established pursuant to Security Council resolution 1373 (2001) and has the honour to forward herewith the follow-up report from the Government of Saint Vincent and the Grenadines as requested by the Committee in its note of 30 August 2002 (see enclosure).

Enclosure

Supplementary report of the Government of Saint Vincent and the Grenadines pursuant to paragraph 6 of Security Council resolution 1373 (2001)

INTRODUCTION

1. By letter of August 30, 2002 the Counter Terrorism Committee (CTC) requested clarification and additional information on a number of issues contained in our earlier report submitted in response to the mandate contained in paragraph 6 of United Nations Security Council Resolution 1373 (2001).

Paragraph 1 "Decides that all States shall:

(a) Prevent and suppress the financing of terrorist acts;

(b) Criminalize the willful provision or collect, by any means, directly or indirectly, of funds by their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;"

Question 1 (a) and (b):

- The CTC would welcome a copy of the United Nations (Ant-Terrorism Measures) Act, 2002, which, according to the report, was passed on 28 May 2002, and a progress report on its implementation. In this connection, the CTC is particularly interested in the provision made to criminalize acts within St. Vincent and the Grenadines that are not inherently of a terrorist nature, such as the collection of funds, but are connected with acts, or intended acts, outside of St. Vincent and the Grenadines that are of a terrorist nature.

- The CTC would also be grateful for a progress report on the work of the committee mentioned in the report as having been set up 'to examine the implications of United Nations Resolutions 1373 and 1368 and to carry out a programme of implementation as far as it is practicable.'

2. The relevant Act is annexed to this Report.

3. On May 28, 2002 the House of Assembly debated and unanimously adopted legislation in the form of the *United Nations (Anti-Terrorism Measures) Bill, 2002*. The Bill was assented to by the Governor-General on 5th July, 2002 and brought into operation from 2nd August 2002 by a Proclamation published in the Gazette (S.R.O. 2002, No. 43). The Act provides for the implementation of the provisions of the *International Convention for the Suppression of the Financing of Terrorism, 1999* and measures to combat terrorism.

4. The offences provisions in sections 3 and 4 of our *Anti-Terrorism Act* criminalize the acts of providing or collecting funds within Saint Vincent and the Grenadines for the carrying out of terrorist acts or for facilitating the commission of terrorist acts anywhere – within Saint Vincent and the Grenadines or outside Saint Vincent and the Grenadines.

5. In adopting this legislation, Saint Vincent and Grenadines has fulfilled the requirements of paragraph 2 (e) of UN Security Council Resolution 1373, that States ensure that terrorist acts are serious criminal offences in their jurisdiction and that the punishment of such acts duly reflects the seriousness of the acts.

6. Our Adviser on International Law and Treaties, Mr. Dileep A. Kamat and Mr. Jaundy Martin, Senior Crown Counsel in the Attorney General's Department both participated in a Workshop on Legislative measures to implement Security Council Resolution 1373 on combating terrorism, held in Antigua recently. In the course of their discussions in the Workshop it had become clear that our legislative provisions in Saint Vincent and the Grenadines generally met the mandatory requirements of the Security Council Resolution 1373 on all the different aspects of the questions of terrorism which had been discussed. In the plan which Mr. Kamat and Mr. Martin prepared and submitted to the Workshop for proposed legislative action in the field of combating terrorism they recommended to the Government that it should consider making only the following two changes in our existing legislation -

(1) At present the definition of the Term "terrorist act" in section 2 of our *United Nations (Anti-Terrorism Measures) Act 2002*, based on a definition of that term in Article 2 of the Financing of Terrorism Convention, adequately meets in requirements of implementing that Convention and S.C. Resolution 1373. But it covers only acts to cause death or serious bodily injury to civilian and not other acts intended to cause serious damage to property, the use of firearms or explosives, and acts intended to disrupt the essential services - when the purpose of such acts could also be to intimidate a population or to compel a government or an international organization to do or abstain from doing something.

Saint Vincent and the Grenadines should broaden its definition of "terrorist Act" in section 2 of the *United Nations (Anti-Terrorism Measures) Act, 2002*.

2. At present the Financial Intelligence Unit (FIU) established under the *Financial Intelligence Unit Act, 2001* is made responsible for receiving, obtaining and disseminating information relating to the proceeds of offences created by the *Proceeds of Crime and Money Laundering (Prevention) Act, 2001*. In addition, it has certain powers to require production of information with respect of offences listed in Schedule 2 to the *Proceeds of Crime and Money Laundering Act* and a "relevant offence" as defined in Section 2 of that Act. A "relevant offence" is, however defined in that Act to mean an offence in which a person has benefited in the sense of obtaining property as a result of or in connection with the commission of the offence.

The United Nations (Anti-Terrorism Measures) Act, 2002 is not listed in Schedule 2 to the *Money Laundering Act* and in the case of terrorist related offence like provision or collection of funds for terrorist acts or the provision of services for terrorist acts, the offenders does not really benefit financially from the commission of such offence. Hence, it is doubtful whether such offences relating to the financing of terrorist related offences fall within the scope of the functions of our FIU.

The Government should make a suitable amendment to our *Proceeds of Crime and Money Laundering Act 2001*, to confer powers to receive, analyse, obtain and disseminate information relating to the financing of terrorist related offences on our Financial Intelligence Unit.

7. Saint Vincent and the Grenadines as a member of the United Nations has always honoured its obligations to comply with United Nations Security Council Resolutions. Following the passage of Resolutions 1373 and 1368, the Government of Saint Vincent and the Grenadines tool immediate steps to form a Committee, to review the status of its security and legislative framework with specific reference to terrorism, and to determine the action required by Saint Vincent and the Grenadines in response to the mandates of those Resolutions. The wide-ranging nature of UNSCR 1373/2001 requires extraordinary action on Saint Vincent and the Grenadines' part legislatively, financially and administratively. This has created a burden on its human and financial resources.

The Committee continues to review on an ongoing basis the said Resolutions and identify areas where:

(a) Saint Vincent and the Grenadines is already in compliance.

(b) Although the objectives are supported, there may be constitutional, legal, financial and administrative difficulties in following the precise course of action in the manner prescribed by the Security Council, and

(c) The legislative, financial and administrative framework can be amended or strengthened as the case may be.

"Decides that all States shall:

(c) Freeze without delay funds and other financial assets or economic resources of persons who commits, or attempt to commit, terrorist or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons; and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities.

(d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;"

Questions 1 (c) and (d):

- The CTC notes that the existing Proceeds of Crime and Money Laundering (Prevention) Act, 2001, in addition to making comprehensive provision in relation to the proceeds of crimes relating to drug trafficking and of certain financial crimes, also makes some provision for the seizure of assets used, or suspected of being intended for use, in the commission of certain crimes. However, the Act does not seem to be directly relevant to the freezing and confiscation of assets related to terrorist activities, especially when those assets come from legitimate sources. Is it intended to amend that Act in that respect or is that question dealt with by the new United Nations (Anti-Terrorism Measures) Act, 2002? In this connection,

could St. Vincent and the Grenadines explain the extent of the terms 'relevant offence', especially as regards the reference in paragraph (b) of the definition of the term in section 2 to 'any offence listed in Schedule 2 to this Act', given that Schedule 2 lists a number of Acts relating to commercial subjects rather than offences.

- It appears that the reach of Financial Intelligence Unit Act, 2001 is limited at present to suspicious transactions specifically in the context of the Proceeds of Crime and Money Laundering (Prevention) Act, 2001 an the International Bank Act, 1996. Please explain how it would be applied to transactions related to terrorist activities. Is this aspect dealt with by the new United Nations (Anti-Terrorism Measures) act, 2002?

- Section 46 of the Proceeds of Crime and Money laundering (Prevention) Act, 2001 puts 'every financial institution or person engaged in a relevant business activity' under a duty to monitor and report suspicious transactions. What, for the purposes of this section, is a relevant business activity'?

- What laws and practical controls and surveillance measures exist to ensure that funds other economic resources collected for religious, charitable or cultural purposes are not diverted for other purposes, particularly for financing terrorism?

- Please indicate the laws and procedures available to regulate alternative remittance systems, including systems of, or similar to, the kind known as hawala.

8. It is true that under the *Proceeds of Crime and Money Laundering (Prevention) Act, 2001* it would not be possible to freeze and confiscate assets related to terrorist activities. Therefore, in sections 13 to 17 of our *United Nations (Anti-Terrorism Measures) Act* we have made provisions – on the lines of the provisions in the *Money Laundering Act* – for seizure and detention of terrorist cash, forfeiture of detained cash and the freezing of funds and financial assets of terrorists and terrorist entities through Restraint Orders made by the High Court.

9. "Relevant offence" in the *Proceeds of Crime and Money Laundering (Prevention) Act, 2001* means -

(a) any indictable offence or an offence triable both summary or on indictment in Saint Vincent and the Grenadines from which a person has benefited as defined in section 7 (3) of this Act, other than a drug trafficking offence;

(b) an offence listed in Schedule 2 of this Act;

(c) any act or omission which, had it occurred in Saint Vincent and the Grenadines, would have constituted an offence as defined in paragraph (a) or paragraph (b).

In other words, "relevant offense" is any offense triable on indictment or either way. This would mean that a terrorist offense triable on indictment or either way is capable of having proceeds restrained or a confiscation order made.

10. It is true that with the definition of the term "relevant offence", as it now stands, in the *Money Laundering Act*, the reach of our Financial Intelligence Unit under the *Financial Intelligence Unit Act 2001* may not extend to financing of terrorist related offences. This aspect is not dealt with by the new *United Nations (Anti-Terrorism Measures) Act, 2002* as we

did not want a separate body to receive, analyse and obtain information about suspicious transactions relating to financing of terrorist related offences. But we will now consider a suitable amendment to the Money Laundering Act to confer powers on the F.I.U. with respect to the financing of terrorist related offences. Please refer to Answer No. (6) for more specific details concerning same.

11. The *United Nations (Anti-Terrorism Measures) Act 2002*, criminalizes the provision and the collection of funds for terrorist activities. The *Proceeds of Crime and Money Laundering (Prevention) Act*, Act No. 39 of 2001, and the *Proceeds of Crime (Money Laundering) Regulations, 2002* impose obligations on financial institutions and relevant businesses to establish certain internal procedures, including but not restricted to, compliance programmes and due diligence procedures which require source of funds to be declared, in keeping with guidelines outlined by the legislation. All financial institutions and relevant businesses are also legally required to file suspicious and/or unusual transactions with the Financial Intelligence Unit, in accordance with the requirements of the *Proceeds of Crime and Money Laundering (Prevention) Act*. Since May 6th, 2002, a Financial Intelligence Unit (FIU) has been operational in St. Vincent and the Grenadines. The FIU is the national centralized agency for the collection, analysis and dissemination of suspicious activity reports.

12. The legislative and administrative framework for detecting suspicious transactions, which transactions would involve possible financing of terrorism, therefore exist in St. Vincent and the Grenadines.

13. The FIU has in fact been receiving numerous suspicious activity reports from financial institutions and relevant businesses. The National Anti-Money Laundering Committee (NAMLC) and the FIU have been involved in extensive training of financial institutions and relevant businesses to ensure that the latter fulfill their obligations under the legislation.

14. Once funds enter the banking system, even for the purposes of obtaining a bank draft for onward transmission out of the State, the likelihood of detection, if diverted for an illegal purpose such as the financing of terrorism, is very high. This is because of the new obligations of financial institutions and relevant businesses under the anti-money laundering legislation, in particular the requirement to file suspicious activity reports.

15. Practically, funds collected for diversion into illegal or terrorism activities, would invariably enter the banking system or encounter relevant businesses, such as money remitters, couriers, lawyers, travel agents, real estate agents and car dealers, for example, all of whom are required to make suspicious activity reports to the FIU. In any event, since most countries have incoming immigration requirements which entail declaration of funds, entry of funds into the banking system is usually required in order to take funds out of the country.

Sub-paragraph 2 (a) "Decides that all States Shall:

(a) Refrain from providing any form of support, activity or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorist."

Question 2 (a):

- As mentioned above, the CTC would be grateful for an outline of the scope of the new United Nations (Anti-Terrorism Measures) Act, 2002 in relation to activities occurring in Saint Vincent and the Grenadines that are not specifically of a terrorist nature but are linked to actual or potential acts of terrorism in another country.

- Please outline the measures, both legislative and practical, preventing entities and individuals from recruiting, collecting funds or soliciting other from of support for terrorist activities to be carried out inside or outside Saint Vincent and the Grenadines, including, in particular:

    - The carrying out, within or from St. Vincent and the Grenadines, of recruiting, collecting of funds and soliciting of other forms of support from other countries; and
    - Deceptive activities such as recruitment based on a representation to the recruit that the purpose of the recruitment of the recruitment is one (e.g.) teaching) different from the true purpose and collection of funds through front organizations.

- What measures does St. Vincent and the Grenadines have to prevent terrorists obtaining weapons within or outside its territory, in particular small arms or light weapons? What is the legislation concerning the acquisition and possession, and import and export, of weapons?

16. Legislative provisions have been made in section 6 of the *United Nations (Anti-Terrorism Measures) Act, 2002* to make it an offence for any person in Saint Vincent and the Grenadines or any citizen of Saint Vincent and the Grenadines outside Saint Vincent and the Grenadines to provide any form of support, active or passive, to any terrorist or terrorist entity (anywhere):

    (a) by recruiting or assisting in the recruitment of persons; or

    (b) by supplying or assisting in the supply of weapons.

17. Collecting or soliciting funds for such activities would also constitute an offence under that Act.

18. Under the laws of Saint Vincent and the Grenadines, citizens do not have the automatic right to bear arms and only licensed firearm holders are allowed to do so. The supply of weapons to citizens is controlled by the Firearms Act, 1995, Cap 275 of the Laws and Saint Vincent and the Grenadines, Revised Edition 1990, a copy of which is annexed to this Report.

19. For acquisition, possession, import and export, of weapons, Saint Vincent and the Grenadines applies the said *Firearms Act, 1995* under which an appropriate license or permit has to be obtained by any person in Saint Vincent and the Grenadines to possess any firearm or ammunition or by any person to import into or export from Saint Vincent and the Grenadines any firearm or ammunition.

20. Saint Vincent and the Grenadines does not manufacture, produce or distribute weapons, ammunition or military equipment, but remains very concerned over the increasing incidence of illegal export of illicit arms within the hemisphere. In particular, it notes with concern the

correlation between the decommissioning of weapons in the context of hemispheric peace processes and the ready availability of a pool of weapons on the region's black market.

21. Saint Vincent and the Grenadines intends to strengthen its administrative procedures and security measures by introducing electronic readers and this Supplementary Report will identify the areas where Saint Vincent and the Grenadines wishes to avail itself of the assistance offered by the CTC.

22. The human resource, administrative and equipment costs associated with the heightened surveillance required in the post-September 11th environment are extremely burdensome on a small developing state like Saint Vincent and the Grenadines, which has not previously needed to give priority to this aspect of security, and which continues to be concerned at the effect the diversion of budgetary resources in this regard will have on the country's economic and social development. There is an urgent need for financial and technical assistance for the provision of equipment and training to strengthen the country's capacity at surveillance, detection and interception of illicit arms. With the limited financial resources of a small economy, the cost of implementing such measures as related to monitoring terrorist activity has not been previously factored among economic priorities. In this regard, the Government of Saint Vincent and the Grenadines wishes to request financial assistance for the purposes of such surveillance and interception of illicit arms.

Sub-paragraph 2 (b) "Decides that all States Shall:

(b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;"

Question 2 (b)

- Please describe the mechanism available in Saint Vincent and the Grenadines to provide early warning of anticipated terrorist activity to other States.

23. Saint Vincent and the Grenadines participates in the Regional Security System (RSS). The Government of Saint Vincent and the Grenadines also honours its Treaty and other obligations in respect of the maintenance of hemispheric and international security. The Government of Saint Vincent and the Grenadines and its Security and Law Enforcement Agencies cooperate fully with like-minded Governments in this regard. To provide further details on operational matters would compromise the effectiveness of the on-going efforts.

Sub-paragraph 2 (c) "Decides that all States Shall:

(c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;"

Question 2 (c)

- Please elaborate on the provisions for the exclusion from St. Vincent and the Grenadines of asylum seekers, and others, who are person of he kind mentioned in sub-paragraph 2 (c) of the Resolution.

24. There are provisions in our *Immigration (Restriction) Act*, Cap 78 of the Laws of Saint Vincent and the Grenadines, Revised Edition, 1990 to prohibit entry into Saint Vincent and the Grenadines for any person, not belonging to Saint Vincent and the Grenadines who on information received by Government is deemed by the Governor General to be an "undesirable immigrant or visitor" to Saint Vincent and the Grenadines.

25. Also, under the *Expulsion of Undesirable Aliens Act*, Cap 77 of the Laws of Saint Vincent and the Grenadines, Revised Edition, 1990, there are provisions for the Governor-General to make an 'expulsion order' against any alien if he deems it expedient for the peace and good order of Saint Vincent and the Grenadines to make such an order. *Section 3 (1)* of the said *Act* states as follows:-

"3. (1) The Governor-General may, if he thinks fit, make an order, hereinafter referred to as an expulsion order, requiring any alien to leave Saint Vincent and the Grenadines within the time fixed by the order and thereafter to remain out of Saint Vincent and the Grenadines."

26. These legislative provisions are considered wide enough to deny safe haven in Saint Vincent and the Grenadines to aliens who finance, plan, support or commit terrorist acts. Copies of these Acts and relevant amendments are annexed to this Report.

Sub-paragraph 2 (d) "Decides that all States Shall"

(d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;"

Question (d)

- Please describe the legal and other measures available in St. Vincent and the Grenadines to prevent the use of its territory for terrorist act outside St. Vincent.

27. All laws which Saint Vincent and the Grenadines has made to deal with specific acts of terrorism (and to implement the U.N. Conventions on combating terrorism which we have joined) - like the *Hijacking Act*, the *Protection of Aircraft and Airports Act*, the Act against the *Taking of Hostages 2002* or the *United Nations (Anti- Terrorism Measures) Act, 2002* - are aimed at not only preventing and punishing the commission of such acts on SVG territory but also at preventing the use of Saint Vincent and the Grenadines territory for the commission of such acts outside of Saint Vincent and the Grenadines. So we do not understand what other special measures are necessary to prevent the use of Saint Vincent and the Grenadines territory for terrorist acts outside Saint Vincent and the Grenadines.

Sub-paragraph 2 (e) "Decides that all States Shall:

(e) Ensure that any person who participates in the financing, planning, preparing or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflect the seriousness of such terrorist acts;"

Question 2 (e)

- Apart from the specific provision made in the Protection of Aircraft and Airports Act, 2002 and the maritime Security Act, 2002, what is the competence of the courts of Saint Vincent and the Grenadines to deal with criminal acts of each of the following kinds;

  - An act committed outside of Saint Vincent and the Grenadines by a person who is a citizen of, habitually residing in, Saint Vincent and the Grenadines (Whether that person is currently present in Saint Vincent and the Grenadines or not);
  - An act committed outside Saint Vincent and the Grenadines by a foreign national who is currently in Saint Vincent and the Grenadines

28. Apart from the specific provisions giving jurisdiction to the courts of Saint Vincent and the Grenadines in our *Protection of Aircraft Act and Maritime Security Act* (mentioned in CTC's Questionnaire), there are specific provisions on 'jurisdiction' in our other anti-terrorist laws like the *Act against the Taking of Hostages, 2002* and the *United Nations (Anti-Terrorism Measures) Act, 2002*. Sections 3 and 4 of the *Act against the Taking of Hostage, 2002* state as follow:-

"3. (1) Every person who confines, imprisons, forcibly seizes or detains another person, and who threatens the death of, injury to, or the continued detention of that person in order to compel a third party to commit any act or omission or cause to be committed any act or omission as an explicit or implicit condition for the release of that person commits an act of hostage taking.

(2) Every person

(a) who commits an act of hostage taking; or

(b) who attempts to commit an act of hostage taking; or

(c) who participates as an accomplice of anyone who commits or attempts to commit an act of hostage taking;

shall likewise be guilty of an offence, and liable to imprisonment for 7 years.

4. Notwithstanding anything in this or any other Act, offences listed under section 3 of this Act shall be deemed to have been committed in Saint Vincent and the Grenadines when

(a) the act is committed in the territory of Saint Vincent and the Grenadines, including on board ships and aircraft registered, licensed, or otherwise subject to the jurisdiction of Saint Vincent and the Grenadines;

(b) regardless of where the act was committed, the person who committed the offence is

(i) a citizen of Saint Vincent and the Grenadines; or

(ii) a stateless person having his habitual or ordinary residence in Saint Vincent and the Grenadines;

(c) regardless of where the act was committed, the act was intended to induce

(i) the Government of Saint Vincent and the Grenadines, or any of its constitutional parts; or

(ii) any natural or juridical citizen of Saint Vincent and the Grenadines, to commit or cause to be committed any act or omission;

(d) regardless of where the act was committed, a person taken hostage is a citizen of Saint Vincent and the Grenadines;

(e) regardless of where the act was committed, the person who committed the act is, after the commission thereof, present in the territory of Saint Vincent and the Grenadines."

29. Courts can exercise jurisdiction in respect of offences under those Acts if the offender is a citizen of Saint Vincent and the Grenadines (even if the offence is committed abroad) or the offender happens to be "present" in Saint Vincent and the Grenadines after the commission of the offence abroad.

Sub-paragraph 2 (f) "Decides that all States Shall:

(f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;"

Question (f)

- Please provide a list of bilateral and multilateral treaties on mutual assistance in criminal matters to which St. Vincent and the Grenadines is party.

- What is the legal timeframe within which a request for judicial assistance in criminal investigations or criminal proceedings (especially if those relating to the financing or other support of terrorist acts) is required to be met and how long, on average, does it actually take in practice to implement such a request in St. Vincent and the Grenadines.

30. A list of bilateral and multilateral treaties on mutual assistance in criminal matters to which Saint Vincent and the Grenadines is a party is annexed to this Report.

31. There are no multilateral treaties on mutual assistance in criminal matters, as such. Some multilateral conventions to which Saint Vincent and the Grenadines is a Party contain provisions on Parties providing assistance to each other in connection with criminal proceedings brought in respect of acts made offences under those conventions. Naturally, Saint Vincent and the Grenadines will respect its obligations under such provisions of multilateral conventions to which it is a Party.

32. In our *Mutual Assistance in Criminal Matters Act, 1993* - under which the request in question would be processed - there is no time limit or timeframe, as such, laid down for receiving a request. Administratively, a three (3) week period is the target for the fulfilling of such requests. However, depending on the terms and nature of the requests, requests for assistance in the investigation and/or prosecution of criminal matters, may be processed in a longer or shorter period.

33. Certain parts of the requests which seek urgent judicial or legal action, such as the restraint or search of property, are carried out swiftly and promptly. This type of action is embarked upon either immediately after authorization to proceed after request, or in a matter of a few days (1-5 days) after the request is received. Other parts of the requests however take a longer time to process, for example, as when financial or other records are required from banks, financial and other institutions or entities. This is because financial and business institutions and entities invariably take a longer time to search for records, than the time specified in Production , Orders or letters of request, for them to produce the material required.

34. The material which is the subject of the request is also usually quite voluminous, and therefore this extends the length of time which financial and other institutions take to receive and compile material requested.

35. On average, however, bearing in mind that certain parts of requests requiring urgent judicial or legal action are executed without any delay whatsoever, the complete processing of request for assistance in criminal matters take up at approximately two (2) months but hardly ever up to three (3) months.

36. Saint Vincent and the Grenadines has never received a request for assistance in the investigation or prosecution of matters relating to terrorist financing or other terrorist activities. In the event that such a request is ever received, it is clear that it would be implemented with dispatch, as a matter of priority and public importance.

Sub-paragraph 2 (g) "Decides that all States Shall:

(g) Prevent the movement of terrorists or terrorist groups by effective border controls an controls on issuance of identity and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;"

Question (g)

- Please describe the mechanism for inter-agency coordination between the authorities responsible for narcotics, financial tracking and security, with particular regard to border controls necessary to prevent the movement of terrorist groups.

- What measures have been taken to prevent the counterfeiting, forgery or fraudulent use of identity papers and travel documents (as distinct from the punishment of person who engage in such activities)?

37. All information received is forwarded to all agencies and entry points and information would be forwarded to **INTERPOL** (International Criminal Organization), FBI and British High Commission. A National Joint Headquarters (NJHQ) was established to collect, collate and disseminate information. It is the local co-ordinating mechanism which involves Immigration, Coastguard, Police and Customs. The Director of the NJHQ is responsible for disseminating such information to the following agencies:-

    - Police
    - Immigration
    - Customs and Excise
    - Financial Intelligence Unit

In addition, an INTERPOL Network is in place to receive and dispatch information to other National Central Bureaux. There is also networking with the Association of Chief Immigration Officers.

38. With regard to financial tracking the FIU works closely with all financial institutions and relevant businesses, in particular with respect to information received from same as a result of suspicious activity reporting. The FIU is also involved in building a strong proactive intelligence base and works closely with local, regional, and international bodies by sharing information through electronic means, which may help in identifying terrorist groups or terrorist funding.

39. Since the advent of the FIU in St. Vincent and the Grenadines, there is however close liaison with all local law enforcement authorities, with respect to the sharing of information pertaining to illegal activities and suspected illegal activities. The FIU has undertaken training and awareness raising of other local law enforcement agencies, on the role and functions of the FIU, in order to promote mutual cooperation and information sharing, and hence significantly to promote proactive financial investigations by the FIU. It is by this means, of building a strong intelligence base, taking a proactive approach, establishing a two way flow of information and establishing a good rapport with industry partners, that illegal activities including terrorism activities and movement, may be detected in St. Vincent and the Grenadines.

40. With regard to border controls necessary to prevent the movement of terrorist groups the following mechanisms are in place;

    - Watch lists of all suspected terrorists re kept at all ports of entry.
    - Joint periodic maritime patrols are conducted both locally and among member states of the Regional Security System (RSS).

41. The Regional Security System came into being in 1982 through a memorandum of understanding, which was upgraded, to a treaty in March 1996. The Treaty is deposited with the United Nations. The mandate of the RSS Treaty provides in article 4 as follows -

42. "The purpose and functions of the system are to promote co-operation among the member states in the prevention and interdiction of traffic of illegal narcotic drugs, in national emergencies, search and rescuers, immigration control, fisheries protection, customs and excise control, maritime policing duties, natural and other disasters, pollution control, combating threats to national security, the prevention of smuggling, and in the protection of off-shore installations and exclusive economic zones."

43. The scope of the RSS Treaty arrangement allows for it to play a supportive role, if required, to assist national efforts in detecting and preventing potential acts of terrorism and the illegal movement of suspected terrorists throughout the Eastern Caribbean.

44. The measures taken to prevent counterfeiting, forgery or fraudulent use of identity papers and travel documents are as under;-

- Close inspection/examination of identity papers and travel documents at the ports of entry.
- The training for Customs and Immigration Officers in identification of travel documents.

Sub-paragraph 3 (a), (b) and (c) "Calls upon State to:

(a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel document; traffic in arms, explosives or sensitive materials; use of communications technologies groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups;

(b) Exchange information in accordance with the international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;

(c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevention and suppress terrorist attacks and take action against perpetrators of such acts;"

Question 3 (a), (b) and (c)

- Is there an institutional mechanism for implementing sub-paragraphs 3 (a), (b) and (c) of the Resolution?

45. This issue has been dealt with under Answer No. 44 above

Sub-paragraph 3 (c) "Calls upon State to:

(c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevention and suppress terrorist attacks and take action against perpetrators of such acts;"

Question 3 (c)

- What is the legal basis for extradition in St. Vincent and the Grenadines? In particular:
  - Is it governed, in any respect, by legislation? If so, please outline the legislation.
  - Is it contingent, in any respect, on the existence of bilateral treaties? If so, please provide a list of the countries with which St. Vincent and the Grenadines has concluded relevant bilateral treaties.

46. Extradition from Saint Vincent and the Grenadines is governed by our *Fugitive Offenders Act, 1989*. This *Act*, which entered into force on 27th December, 1989 provided for the return from Saint Vincent an the Grenadines of persons found therein who are accused of, or have been convicted of, offences in other countries and whose return is requested by such other countries and for matters related thereto. The relevant Act is annexed to this Report.

47. In respect of a non-Commonwealth "foreign' country, the application of that Act to such country depends on the existence of a bilateral extradition treaty with that country or the existence of a multilateral convention to which both Saint Vincent and the Grenadines and such country are Parties (provided in the latter case the application of the Act relates only in respect of offences to which such convention relates).

48. The list of foreign countries to which our *Fugitive Offenders Act* has been applied on the basis of pre-independence bilateral extradition treaties of the U.K. and is in the Second Schedule to that Act.

49. So far as post-independence Extradition Treaties of Saint Vincent and the Grenadines are concerned, the Government concluded one with the United States of America in 1996.

Sub-paragraph 3 (d) "Calls upon State to:

(d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;"

Question 3 (d):

- The CTC would welcome a report, in relation to the relevant international conventions and protocols relating to terrorism, on the progress made by St. Vincent and the Grenadines in:
  - Becoming a party to the instruments to which it is not yet a party; and
  - Enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.

50. Saint Vincent and the Grenadines has become a Party to seven international conventions and protocols listed in the Second Schedule to our *United Nations (Anti-Terrorism Measures) Act, 2002* besides the 1999 International Convention for the Suppression of the Financing of Terrorism itself.

51. We have enacted specific legislation to implement each of these conventions/protocols which we have joined. Thus, we have our *Hijacking Act, 1997*; *Protection of Aircraft and Airports Act, 2002*; *Internationally Protected Persons Act, 2002*; *Act against the Taking of Hostage, 2002*; *Maritime Security Act, 2002* and the *United Nations (Anti-Terrorism Measures) Act, 2002*. The relevant Acts are annexed in this Report.

52. Saint Vincent and the Grenadines is not yet a Party to the Convention on the Marking of Plastic Explosives, 1991 and to the International Convention for the Suppression of Terrorist Bombings, 1999. But steps will be taken to join those conventions and, thereafter, suitable implementing legislation would be enacted in Saint Vincent and the Grenadines to implement those two conventions.

Sub-paragraph 3 (e) "Calls upon State to:

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);"

Question 3 (e):

- Have the offences set forth in the relevant international conventions and protocols been included as extraditable offences in the relevant bilateral treaties (if any) to which St. Vincent and the Grenadines is party?

53. In the appropriate legislation to implement the relevant international convention/protocol a section is included on 'Extradition'. In that section it is provided 'inter alia' that "Notwithstanding anything contained in sections 3 and 4 of the *Fugitive Offenders Act*, that Act shall apply to all countries State Parties to the Convention in respect of offences to which the Convention relates".

54. Also, a provision is made to say "offences under this Act shall be deemed to be included in the description of relevant offences set out in the First Schedule to the *Fugitive Offenders Act*."

55. Therefore, it is not necessary to amend the bilateral treaties to include the offences under the conventions and protocols on terrorist offences.

Sub-paragraph 3 (f) "Calls upon State to:

(f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist act;"

Question 3 (f):

- What legislation, procedures and mechanisms are in place for ensuring that refugee status is not granted to asylum seekers who have been involved in terrorist activity?

56. Saint Vincent and the Grenadines has not had any asylum seekers and there are no special laws for refugees either. But should any occasion arise, Saint Vincent and the Grenadines would comply with sub-paragraph 3 (f) of Security Council Resolution 1373 acting under the provisions of its *Immigration (Restriction) Act* relating to prohibited immigrants.

Sub-paragraph 3 (g) "Calls upon State:

(g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorist;"

Question 3 (g):

- Is it possible under the laws of St. Vincent and the Grenadines for requests for the extradition of alleged terrorists to be refused on political grounds?

57. There is a provision in our *Fugitive Offenders Act* which says that any offence established under any multilateral international convention (to which both Saint Vincent and the Grenadines and the requesting country are Parties) which is declared by that convention not to be regarded as a political offence for the purposes of extradition - shall not fall under the political offence ground for refusing extradition.

58. Section 8 (2) (d) of the above-mentioned Act states as follows:

"8. (2) Subject to the provisions of subsection (4), the following offences are not offences of a political character-

(a) an offence against the life or person of a Head of State or a member of his immediate family;

(b) an offence against the life or person of a Head of Government or a Minister of Government or a Member of Parliament;

(c) murder and manslaughter;

(d) an act declared to constitute an offence under a multinational international convention to which both Saint Vincent and the Grenadines and the requesting country are parties and whose purpose is to prevent or repress a specific category of offences and which imposes on the parties thereto an obligation either to extradite or to prosecute the person sought."

59. Therefore, if the relevant convention contains the appropriate provisions to say that extradition should not be refused for the convention offence on political grounds, there is no

possibility that extradition would be refused on political grounds in Saint Vincent and the Grenadines.

Sub-paragraph 4 "Calls upon State to:

4. Notes with concern the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly material, and in this regard emphasizes the need to enhance coordination of efforts on national, sub regional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security."

Question 4

- Has St. Vincent and the Grenadines addressed any of the concerns expressed in paragraph 4 of the Resolution?

60. The Government of Saint Vincent and the Grenadines and its Security and Law Enforcement Authority share the Security Council's concerns about the inter-relationship among the various components of transnational crime and are participating fully at the national, regional and international level in response to these threats to security. For small states like Saint Vincent and the Grenadines, security issues cannot be divorced from economic issues. Many of the emerging threats to international security are created or exacerbated by the fact that many of our society are not capable of meeting the basic needs of their people. Poverty, inequity and injustice have always provided a fertile breeding ground for zealotry, fanaticism and criminal behaviour. The major threats to security which confront most of our governments in the early twenty-first century no longer center on military confrontation between states, but involves the challenges posed by new and non-traditional threats, of which terrorism is only one component. Equally devastating to small vulnerable states are the threats posed by the illicit trafficking of narcotics and small arms, organized transnational crime, the pandemic of HIV/AIDS, the effects of economic disenfranchisement, poverty and social exclusion, environmental degradation and natural disaster. Our governments have not traditionally been structured to deal with such threats where the enemy is not definable and where the principal involvement is by non-state actors.

61. The terrorist attacks on New York and Washington DC, on September 11, 2001, have, for the moment, changed the world for the worst. How long this historical moment will last is a matter of conjecture since the extent of the fall-out of these attacks is yet to be fully realized. But there is no need to panic. Right-thinking people and nations the world over have determined that the barbarism of terrorism will not triumph over civilization, its values and way of life. Accordingly, across the globe, right-thinking persons and nations are coming together as never before to fight terrorism and its security, economic, social, and political consequences. It is concerted action internationally, regionally and nationally, which will, in the end, ensure the defeat of barbarism and the victory of peace, stability, security, economic progress and renewal, social recovery, democratic strengthening, and community solidarity.

62. While small states are particularly vulnerable to these insidious new threats, no country can consider itself immune and given the trans-border nature of the threats, the only viable

response is one which is coordinated at the multilateral level. The Government of Saint Vincent and the Grenadines is fully committed to co-operating with other Sates within the framework of international law and universally accepted best practice for suppressing international terrorism in all its manifestations. It should also be recalled that Saint Vincent and the Grenadines supports through the use of its diplomatic instruments various UN resolutions and the principal Conventions for co-operating against international terrorism.

63. At the sub-regional level, Saint Vincent and the Grenadines has participated in the work of the CARICOM Intergovernmental Task Force on Drug (IGTF). This was established by the CARICOM Conference of Heads of Government at its Fifth Special Meeting in December 1996, and its main task is to formulate an integrated regional counter narcotics policy, covering all aspects of the drug trade. Since its establishment, the IGTF has proved to be a very useful mechanism in terms of coordinating anti-narcotics programmes in the region.

64. A CARICOM Task Force on Crime and Security was established in July 2001 by the CARICOM Heads of Government to study the fundamental causes of crime, violence and security threats in the region and to develop recommendations for a co-ordinated regional and/or sub-regional response. Saint Vincent and the Grenadines has also been involved in the work of this Task Force.

65. The Government of Saint Vincent and the Grenadines has committed to a Financial Sector Assessment Programme (FSAP), which is scheduled to commence in the second half of 2003. Included in the first stage of the project is a self-assessment of Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) Standards in the member territories, the objective of which is to produce a comprehensive, credible and action-oriented overview of the supervisory and legal systems, practices and procedures. The self-assessment methodology seeks to determine the extent to which member countries have implemented the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988 (The Vienna Convention), the UN International Convention for the Suppression of the Financing of Terrorism, 1999, and the UN Convention Against Transnational Organized Crime 2000 (Palermo Convention), as well as other regional AML/CFT Conventions (eg. The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime). The extent to which the UN Security Council Resolution 1373 has been implemented is also being assessed.

66. At the international level it should be noted that, Saint Vincent and the Grenadines is also party to a number of bilateral and multilateral treaties which address various components of transnational security threats.

67. Saint Vincent and the Grenadines continues to be concerned that, as a small and vulnerable state, it has no capacity to defend itself against weapons of mass destruction and reiterates its strenuous objectives to the continued use of the Caribbean Sea as a route for the transshipment of hazardous nuclear materials, which places all of the countries of the region at an increased risk of a potential catastrophe in the event of terrorist action or accident. This matter continues to occupy the attention of the council for Foreign and Community Relations (COFCOR) of the Caribbean Community, which at its last meeting on May 8, 2002, issued a statement stressing that "the events of September 11, 2001 and the subsequent public revelations that nuclear options have indeed been exploded by terrorist groups clearly demonstrate that the threat of nuclear accidents or nuclear terrorism is very real. In these circumstances, and at a time when the international community is so heavily focused on

security issues, it is inconceivable that the dangerous shipments should be allowed to continue on a routine basis, without regard to the obvious and escalating risks to which they expose all societies in their transit path."

Other matters

- Could St. Vincent and the Grenadines please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the law, regulations and other documents that are as contributing to compliance with the Resolution.

68. The relevant Organizational Chart is annexed to this Report.

CONCLUSION

69. In keeping with paragraph 1.4 of the Guidance for the Submission of Reports, pursuant to Paragraph 6 of Security Council Resolution (1373) 2001 of 28 September 2001, regarding the identification of areas in which states require additional guidance or technical assistance in implementing the resolution, the Government of Saint Vincent and the Grenadines reiterates its request for assistance in the implementation of some of the required counter-terrorism measures. Saint Vincent and the Grenadines is a small state with limited financial and technical resources relative to the demands of the fight against terrorism.

70. Traditionally, terrorism has not been a serious threat to this country and budgetary priorities have been focused towards the island's social and economic development, as well as the stated goal of the elimination of poverty. Sustaining this development focus is already threatened by the emphasis that must now be given to the non-traditional aspects of security as previously outlined. However, Government is cognizant of the very real threat posed by international terrorism and those who perpetrate terrorist acts. In these circumstances, the Government of Saint Vincent and the Grenadines remains committed to the fight against terrorism and will do all within its capacity to contribute to the international effort in this regard in keeping with the provisions of its Constitution and relevant international law. Saint Vincent and the Grenadines will however require financial and technical support from the international community if it to avoid the destabilizing diversion of its limited resources from priority development activities towards security issues, whose main beneficiaries will be the developed countries against which the majority of acts of terrorism are directed.

71. Technical assistance is required for law enforcement agencies including the Customs and Immigration Department, through the acquisition and maintenance of appropriate technology including electronic surveillance and interception equipment for the Ports and Airports as well as the training of personnel in counter-terrorism techniques including detection of fraudulent travel documents and where relevant, enhanced forensic capacity in biological and chemical detection.

72. Financial and Technical assistance as well as Training is specifically required for:

    - The Task Force, Special Branch, and Intelligence Arms of the Royal Saint Vincent and the Grenadines Police Force.

- Assistance for the relevant Legal professionals, in both civil and criminal matters with regard to drafting in the area of security and in the preparation of enabling legislation. Technical studies are also needed to review Saint Vincent and the Grenadines' legislation and administrative capacity to implement many of the necessary actions to fight terrorism and the financing of the same.
- IT assistance is required in the establishment of a comprehensive database, which allows for tracking suspicious movements and activities at the domestic, regional and international levels.
- Appropriate hardware and software computer equipment to create an effective network linking the related law enforcement agencies, both nationally and regionally.
- Making Saint Vincent and the Grenadines' border control measures more effective and more efficient through the provision of early access to passenger, carrier and cargo information. This advance information should be provided electronically by the carriers, both airlines and ships, so that better profiling and targeting can be undertaken by Law Enforcement Agencies.

Annex 1

List of acts

1. United Nations (Anti-Terrorism Measures) Act, 34 of 2002.
2. Fugitive Offenders Act, 1989.
3. Financial Intelligence Unit Act, 2002.
4. Proceeds of Crime and Money Laundering Act, 2001.
5. Firearms Act, 1995.
6. Immigration (Restriction) Act.
7. Expulsion of Undesirable Aliens Act.
8. Hijacking Act, 1997.
9. Protection of Aircraft and Airports Act, 2002.
10. Act against the Taking of Hostages, 2002.

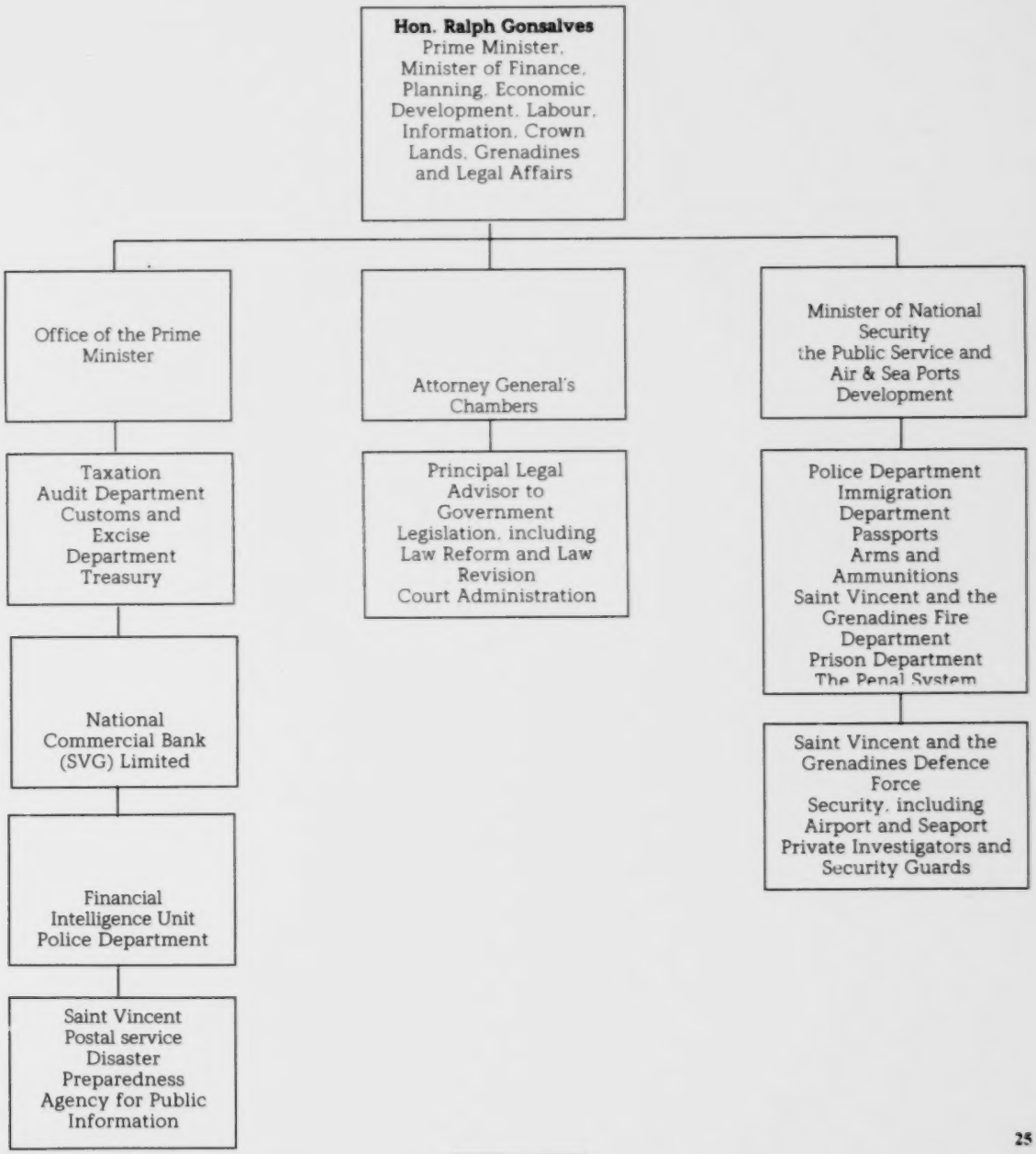
Annex 2

List of bilateral and multilateral treaties on mutual assistance in criminal matters to which Saint Vincent and the Grenadines is a party

- Bilateral – Treaties
- Treaties of Extradition between the Government of Saint Vincent and the Grenadines and the Government of the Republic of China – date of entry into force is 19th August, 1992.
- Treaties on Mutual Legal Assistance in criminal maters between the Government of Saint Vincent and the Grenadines and the Government of the United States of America – 1998.
- Saint Vincent and the Grenadines is a party to the Caribbean Community (CARICOM) Multilateral Double Taxation Treaty. The following Member States and territories are a party to this Treaty: Anguilla, Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia and Trinidad and Tobago.

Annex 3

The Government of Saint Vincent and the Grenadines
Organisational chart
Law enforcement agencies


Hon. Ralph Gonsalves
Prime Minister, Minister of Finance, Planning, Economic Development, Labour, Information, Crown Lands, Grenadines and Legal Affairs
Office of the Prime Minister
Attorney General's Chambers
Minister of National Security the Public Service and Air & Sea Ports Development
Taxation
Audit Department
Customs and Excise Department
Treasury
Principal Legal Advisor to Government
Legislation, including Law Reform and Law Revision
Court Administration
Police Department
Immigration Department
Passports
Arms and Ammunitions
Saint Vincent and the Grenadines Fire Department
Prison Department
The Penal System
National Commercial Bank (SVG) Limited
Saint Vincent and the Grenadines Defence Force
Security, including Airport and Seaport
Private Investigators and Security Guards
Financial Intelligence Unit
Police Department
Saint Vincent Postal service
Disaster Preparedness
Agency for Public Information